

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ROOSEVELT BUSSEY,

Plaintiff,

-v-

9:10-CV-1021 (NAM/DEP)

**BRIAN FISCHER, Commissioner NYSDOCS;
MICHAEL HOGAN, Commissioner NYSOMH;
DONALD SAWYER, Director CNYPC; JOHN
DOE 1, Coordinator Attica ICP; JOHN DOE 2,
Unit Chief Attica MHU; MS. STRICKLAND,
Unit Chief Auburn MHU; MR. MAYER, Unit
Chief Auburn MHU; and JOHN DOE 3, Director
Mid-Hudson PC,**

Defendants.

APPEARANCES:

ROOSEVELT BUSSEY
09-A-0782
Auburn Correctional Facility
P.O. Box 618
Auburn, New York 13021
Plaintiff, *pro se*

HON. ERIC T. SCHNEIDERMAN, Attorney General of the State of New York
JUSTIN C. LEVIN, ESQ, Assistant Attorney General
The Capitol
Albany, New York 12224
Attorney for Defendants

Hon. Norman A. Mordue, Chief U.S. District Judge:

MEMORANDUM-DECISION AND ORDER

Plaintiff, a New York State prison inmate, brought this action for injunctive, declaratory, and monetary relief under 42 U.S.C. § 1983, alleging that defendants denied him of his right to adequate mental health care and that the lack of adequate mental health treatment for inmates is

pervasive throughout New York's prison system. Defendants moved (Dkt. No. 17) to dismiss the complaint under Fed. R. Civ. P. 12(b)(6). Upon referral pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72.3(c), United States Magistrate Judge David E. Peebles issued a Report and Recommendation (Dkt. No. 22) recommending the following: that all claims relating to plaintiff's incarceration at Attica from 1993 to 2001 and from 2002 to 2005 be dismissed as time-barred by the applicable statute of limitations; that plaintiff's claims against defendants Fischer, Hogan, Sawyer, and Strickland be dismissed for lack of personal involvement; and that plaintiff's complaint be dismissed in its entirety with leave to replead. Magistrate Judge Peebles further stayed discovery pending a final determination in connection with the instant motion, the submission of an amended complaint accepted for filing with the court, and the filing of an answer to that amended complaint.

Plaintiff has submitted an objection (Dkt. No. 23) stating that he "objects to U.S. Magistrate Judge David E. Peebles Report, Recommendation and Order in its entirety." Plaintiff also requests a 60-day extension of time to prepare and file the amended complaint.

Where, as here, a party interposes only general objections to a report and recommendation, the Court reviews for clear error or manifest injustice. *See Davis v. Chapple*, 2010 WL 145298, *2 (N.D.N.Y. Jan. 8, 2010), *Brown v. Peters*, 1997 WL 599355,*2-*3 (N.D.N.Y.), *aff'd without op.*, 175 F.3d 1007 (2d Cir. 1999). The Court finds no error or injustice in the Report and Recommendation. Even under the more stringent *de novo* standard, the Report and Recommendation is proper in all respects. Accordingly, the Court accepts the Report and Recommendation in its entirety.

When he filed his objection on August 12, 2011, plaintiff requested 60 days to prepare and

file an amended complaint. The Court grants this request. Accordingly, plaintiff should file his amended complaint in accordance with the Report and Recommendation on or before October 12, 2011.

It is therefore

ORDERED that the Report and Recommendation (Dkt. No. 22) is accepted; and it is further

ORDERED that defendants' motion to dismiss (Dkt. No. 17) is granted in accordance with the Report and Recommendation; and it is further

ORDERED that the complaint is dismissed with leave to replead in accordance with the Report and Recommendation; and it is further

ORDERED that plaintiff is directed to file and serve his amended complaint, if any, on or before October 12, 2011; and it is further

ORDERED that plaintiff is advised that if he does not file an amended complaint on or before October 12, 2011, the case will be closed without further order of the Court; and it is further

ORDERED that the Clerk of the Court serve a copy of this Memorandum-Decision and Order upon the parties in accordance with the local rules.

IT IS SO ORDERED.

Date: September 27, 2011


Norman A. Mordue
Chief United States District Court Judge